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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,517	06/01/2001	Anette Buschka	000500-301	9594

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EXAMINER

COLE, ELIZABETH M

ART UNIT PAPER NUMBER

1771

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/870,517

Applicant(s)

BUSCHKA ET AL.

Examiner

Elizabeth M. Cole

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

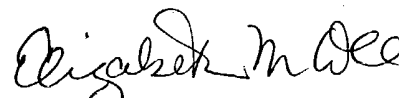
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-36.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
Elizabeth M. Cole  
Primary Examiner  
Art Unit: 1771

Continuation of 2. NOTE: The proposed amendment to the drawing will not be entered for the following reason: The specification as originally filed states that the nonwoven gauze is formed by an air-doffing apparatus with the aid of a Fehrer K21 card. The issue is whether a Fehrer K21 card is a part of the air doffing apparatus or a Fehrer K21 card is a separate apparatus which is used in the process. Applicant's statement that US 4,972,551 shows that such an apparatus was known is not sufficient to allow the amendment. Applicant must show that a Fehrer K21 card is a part of an air doffing apparatus. The only US patent which refers to a Fehrer K21 card that could be found by the examiner is US 5,353,485 which appears to show a different apparatus than what is shown in fig 1 of Applicant's drawings. See figure 2 of "485 as well as colm 3, lines 40- col. 4, line 18. In this patent, it seems that the entire apparatus would be referred to as a Fehrer K21 card. Applicant needs to show that the particular apparatus described in the specification, namely, an air-doffing apparatus would comprise a Fehrer K21 card as an element of that apparatus which is what the amendment to the drawing is seeking to show. To establish this, Applicant could use a product manual or specification for a Fehrer K21 card, or any other means which is available to applicant, but the showing has to be very specific in that the specification states "with the aid of a Fehrer K21 card" and Applicant is seeking to amend the drawing to show that a single apparatus which is referred to as an air-doffing apparatus comprises an element designated as 9 which would correspond to the Fehrer K21 card. Since the issue of whether one or two apparatuses are used, (i.e., whether the description "with the aid of" means that a single apparatus is used or that two apparatuses, namely the air doffing apparatus and the Fehrer K21 card, are used), Applicant needs to show that a K21 card is always used as a part of an air doffing apparatus and is not a separate apparatus. . .